

Maranatha Broadcasting

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October 1, 1997

Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

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FCC MAIL ROOM
RE: Comments on Proposed Rule Making
MM Docket No 97-182

Gentlemen:

SUPPORT: This letter represents strong support for F.C.C. preemption of state and local laws and ordinances with respect to matters of broadcasting. However, we request strengthening and more clarity of wording with respect to inclusion of the entire broadcast system from studio to transmitter for noncommercial educational fm radio.

PROBLEM: We currently hold a construction permit for KASK (File No: BPED-960606MB) in Fairfield, CA with an expiration date of June 26, 1998. We have negotiated for the hill top transmitter site as indicated in our application, and have secured a second site for our station. The second site was chosen based on the Solano County zoning regulation which reads:

"Communication facilities may be permitted in any district; provided, that the provisions of Section 28-59 shall prevail when such facilities are within airport flight obstruction areas and a use permit is first secured in each case."

Whereas the facility is not affected by a flight obstruction area, the latter portion does not apply. The station will be linked to our transmitter site by a microwave transmission STL.

Prior to filing for a use permit, we were advised by the county planning department to request a ruling as to whether or not the radio station qualified as a communications facility, and we complied. In our letter of request we pointed out that the station is licensed by the Federal *Communications* Commission, and thus the station is indeed a *communications* facility. In their reply, a copy of which is enclosed, they state that "A manned FM radio station or studio facility as you have described does not qualify as a permitted use in the Rural Residential District." The station was to be located on leased land on which a church and school are currently also under construction, and was to be uniquely integrated with their operation.

This surprising interpretation of their own regulations and the apparent lack of cooperation by the county planning commission in not allowing us proceed with plans for this radio station, and may cause us to fail to meet our F.C.C. deadline. In our verbal discussions, they have asked us such questions as how big our STL antenna and any satellite receiver dish were proposed to be. In doing so, they are clearly involving themselves in areas of concern that should be preemptively in the hands of the F.C.C.

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CONCLUSION: We recognize that in the 1982 amendments to the Communications Act, Congress intended federal regulation to completely occupy the field to the exclusion of local and state government. Though our attorney feels that the current wording of this proposed rule already will help us in our dispute with the county, we would like to request that the preemptive ruling be clearly stated to include all portions of the broadcast chain from studio to transmitter. County ordinances should not be permitted to block implementation of that which has been approved by the F.C.C.

Sincerely,

A handwritten signature in cursive script, appearing to read "Glenn D. Toppenberg".

Glenn D. Toppenberg, President
Maranatha Broadcasting, Inc.

GDT:me

cc: Don Martin, Atty



Department Of
Environmental Management
601 Texas Street
Fairfield, CA • 94533

Planning Division
(707) 421-6765

July 24, 1997

Glenn D. Toppenberg, President
Maranatha Broadcasting
160 Lighthouse Way
Vacaville, CA 95688

Re: FM Broadcasting Station at 4740 Allendale Rd..

Dear Mr. Toppenberg,

The Solano County Planning Division is in receipt of your request for a zoning determination on whether a noncommercial educational religious broadcasting station at the Seventh-day Adventist Church property located at 4740 Allendale Road is consistent with Chapter 28 of the Solano County Code (Zoning Regulations).

Prior to October 10, 1995, Sec. 28-50(a)(14) of the County Code read as follows:

Radio transmission and relay facilities may be permitted in any district: provided that the provisions in Section 28-59 shall prevail when such facilities are within airport flight obstruction areas and a use permit is first secured in each case.

This Section is used for the purpose of locating towers, poles, dishes and other unmanned structures such as equipment shelters for various types of communications. In October 1995, the County Zoning Ordinance was amended by adopting word "Communication" to replace "Radio transmission and relay". This change was adopted to clarify the meaning of the zoning ordinance to be inclusive of radio, microwave, cable, digital, and other technologies that are being employed by the telephone and other data transmission industries.

Your project description states that your facility will be a triple-wide commercial modular trailer to house offices for five staff members and be used as a radio station. A manned FM radio station or studio facility as you have described does not qualify as a permitted use in the Rural Residential District under Section 28-50(a)(14) of the Solano County Code but would appear to qualify in an Office or General Commercial District.

If you have any further questions, please feel call me at this office.

Very Truly Yours,

Christopher L. Monske
Planning Program Manager